

STATE OF MICHIGAN  
COURT OF APPEALS

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DALE A. GRIM,

Plaintiff-Appellant,

v

SHERRY L. GRIM,

Defendant-Appellee.

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UNPUBLISHED  
February 11, 2003

No. 235284  
Saginaw Circuit Court  
LC No. 98-022139-DM

Before: Sawyer, P.J., and Jansen and Donofrio, JJ.

PER CURIAM.

Plaintiff Dale A. Grim appeals as of right the trial court's judgment of divorce, as well as the court's denial of plaintiff's motion for reconsideration. We affirm in part, reverse in part, and remand.

Plaintiff's first issue on appeal is that the trial court erred in the valuation of the parties' motor vehicles as divided. We agree. In a divorce action, dispositional rulings are reviewed de novo; however, a trial court's factual findings are reviewed using the clearly erroneous standard. *Keen v Keen*, 194 Mich App 72, 75; 486 NW2d 105 (1992). The appellate court will not reverse a trial court's factual finding unless this Court is left with a definite and firm conviction that a mistake has been made. *McNamara v Horner*, 249 Mich App 177, 183; 642 NW2d 385 (2002). If the findings of fact are upheld, the appellate court must decide if the trial court's dispositional ruling is equitable and fair in light of those facts. *Sparks v Sparks*, 440 Mich 141, 151-152; 485 NW2d 893 (1992). Because a trial court's dispositional rulings are discretionary, the appellate court should affirm the trial court's ruling unless this Court determines that the property division was inequitable. *McNamara, supra* at 183.

Our review of the record reveals that plaintiff placed on the record evidence of a \$3,000 lien on his 1983 Chevrolet dual-wheel pickup truck, contrary to the trial court's statement that no evidence or testimony of a lien was placed on the record. Additionally, the trial court took into account the debt related to defendant's car, but did not do so with plaintiff's truck. The trial court also took into account only the *net* value of defendant's car in determining the final award to the parties, yet again did not do so with plaintiff's truck. The trial court clearly erred in failing to consider the \$3,000 lien on the 1983 Chevrolet pickup truck when it determined the net value of this marital asset. *McNamara, supra*, 249 Mich App 183; *Keen, supra*, 194 Mich App 75.

Plaintiff's next issue on appeal is that the trial court erred in determining the value of his tools. Plaintiff presented evidence that his tools had an estimated value of \$10,600. However, the court also found that plaintiff's 1998 income tax deduction of \$7,650 for the tools was depreciation and, therefore, increased the fair market value of the tools to \$18,250. An item that is expended at the end of the year and deducted as an expense is not simultaneously depreciable. See 26 USC 62(a)(1); 26 USC 162(a); 26 CFR 1.162-1. Hence, the trial court clearly erred when it added plaintiff's \$7,650 unreimbursed employee expense deduction to the tools' estimate. *McNamara, supra*, 249 Mich App 183; *Keen, supra*, 194 Mich App 75.

Plaintiff's next contention on appeal is that the trial court erred in determining the valuation date of defendant's pension, IRA, and 401(k) accounts. Whenever they are relevant to the particular facts, a trial court must consider the property division factors to reach an equitable marital property decision. *Sparks, supra*, 440 Mich 159-160. Because divorce proceedings involve a wide array of factual circumstances, determining which property division factors are relevant varies from case to case; therefore, there is no rigid framework for applying the relevant factors. *McNamara, supra*, 249 Mich App 185-186.

Although marital property divisions do not need to be mathematically equal, an equitable distribution of marital assets means that they will be roughly congruent, and any significant departures from congruence must be clearly explained by the trial court. *Byington v Byington*, 224 Mich App 103, 114-115; 568 NW2d 141 (1997). Here, the trial court went into great detail about the factual circumstances surrounding plaintiff's fault in the breakdown of the marriage and made specific findings of fact on the "conduct" property division factor. Our review found that there was sufficient evidence presented to support the trial court's findings of plaintiff's fault articulated in its opinion. Plaintiff's testimony regarding when he considered the marriage over was well before the pensions increased substantially in value. The trial court's determination of February 16, 1997 as the valuation date for defendant's pension, IRA, and 401(k) was not an abuse of discretion because that is the date that plaintiff moved out of the marital home and, in essence, ended the marriage. *Nalevayko v Nalevayko*, 198 Mich App 163, 164; 497 NW2d 533 (1993).

"Generally, and without restricting the discretion of the court, a motion for rehearing or reconsideration which merely presents the same issues ruled on by the court, either expressly or by reasonable implication, will not be granted." MCR 2.119(F)(3); *Churchman v Rickerson*, 240 Mich App 223, 233; 611 NW2d 333 (2000). A trial court's decision to deny a motion for reconsideration is reviewed for an abuse of discretion. *In re Beglinger Trust*, 221 Mich App 273, 279; 561 NW2d 130 (1997). The trial court did not abuse its discretion in denying plaintiff's motion for reconsideration on this issue because it was the same issue already ruled on by the trial court. *Churchman, supra* at 233.

Plaintiff also argues the trial court erred in dividing the parties' daughter's wedding expenses. The trial court considered various evidence related to this issue, including that plaintiff attended and participated in the wedding, and that the parties' daughter was not making a third-party claim for money for wedding expenses. See generally *Yedinak v Yedinak*, 383 Mich 409, 416; 175 NW2d 706 (1970). The trial court did not clearly err in determining the wedding expenses was a marital debt and that the \$750 plaintiff paid for liquor expenses was for his son's wedding, and not his daughter's, because evidence supported this finding. *Draggoo v Draggoo*, 223 Mich App 415, 429-430; 566 NW2d 642 (1997). Additionally, the trial court did not abuse

its discretion in denying plaintiff's motion for reconsideration on this issue because it was the same issue already ruled on by the trial court. *Churchman, supra*, 240 Mich App 233.

Lastly, plaintiff argues that the trial court erred in dividing the parties' credit card expenses. The trial court considered various evidence related to this issue, including testimony that the credit card was used to finance family vacations. The trial court did not err when it required plaintiff to assume \$1,000 of the credit card debt because there was sufficient evidence presented to support the trial court's determination that this was marital debt. *Draggoo, supra*, 223 Mich App 429-430. Finally, the trial court did not abuse its discretion in denying plaintiff's motion for reconsideration on this issue because it was the same issue already ruled on by the trial court. *Churchman, supra*, 240 Mich App 233.

Affirmed in part, reversed in part, and remanded for a judgment in accordance with this opinion. We do not retain jurisdiction.

/s/ David H. Sawyer

/s/ Kathleen Jansen

/s/ Pat M. Donofrio